

REMARKS

Claims 4-7, 14-17, 23 and 24 are pending. Claims 4-7, 14-17, 23 and 24 were rejected. Claims 25 and 26 have been newly added to more clearly point out what is claimed. Claims 4-7 and 14-17 have been amended without prejudice or disclaimer in order to more clearly point out what is claimed and to update dependencies. Claims 23 and 24 have been canceled without prejudice or disclaimer. Claims 25 and 26 are independent claims. No new matter has been added. Support for the pending claims as amended and for the newly added claims can be found, for example, in paragraphs 25 through 33 and in Figs. 5 and 11.

35 U.S.C. 103(a)

Lawandy et al. WO 99/67085

The Examiner rejected claims 4-6, 14-16, 23 and 24 under 35 U.S.C. 103(a) as being obvious in light of Lawandy et al. WO 99/67085 (hereafter the “‘085 application”).

Claims 23 and 24 have been canceled without prejudice or disclaimer.

The ‘085 application discloses a limited life optical medium. The limited life optical medium of the ‘085 application becomes unreadable after a predetermined period of time and after a triggering stimulus is applied to the limited life optical medium. The ‘085 application discloses an optical medium that is readable by an optical medium reading device at least once before becoming unreadable. The requirement of being read at least once is repeated through the disclosure of the ‘085 application. For example, but not limited to, page 1, lines 10-25 and page 23, lines 30-35.

The ‘085 application does not disclose a limited life optical medium that becomes unreadable before being read at least once and **while still enclosed in said package**. There is no suggestion or teaching of a limited life optical medium that becomes unreadable before being read at least once and while still in the optical medium packaging. The ‘085 application does not disclose or teach a **package compris[ing] a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises a **getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The claims as currently amended require that the barrier material that acts a diffusion layer be separate from the limited life optically readable medium.

The Examiner’s particular reference to page 28, lines 4-31 in the ‘085 application regarding sealing the material in a ziplock bag in no manner suggests that the limited life optical medium become unreadable while in the ziplock bag. The disclosure in this section, and throughout the ‘085 application, is directed to preserving and/or inhibiting

the read inhibiting agent from undergoing its permanent and irreversible change until such a time that the limited life medium is removed from the ziplock bag and the information encoding features can be read at least once. There is no suggestion or teaching in the '085 application that would suggest to one skilled in the art that the limited life optical medium should become unreadable while in the ziplock bag. Moreover, Applicants understand this argument by the Examiner to be based on personal knowledge. Applicants request that Examiner provide an affidavit as to ziplock bag permeabilities and as provided for under 37 C.F.R. 1.107.

The claims 25 and 26 as currently pending in the present application require that the limited life optical medium be able to expire **while still enclosed in said package** and after a predetermined time and before being read at least once. Claims 25 and 26 further require that the **package comprises a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises **a getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The barrier material which acts as the diffusion barrier is separate and apart from the limited life optically readable medium. The diffusion barrier is not a constituent of the optically readable medium.

Claims 4-7 and 14-17 depended from claims 25 and 26. For the above reason claims 4-7 and 14-17 are believed allowable.

In view of the above, Applicants respectfully request that the rejections be withdrawn.

Lawandy et al. WO 99/67085 in light of Mallow et al. US 5,183,763

The Examiner rejected claims 4-6, 14-16, 23 and 24 under 35 U.S.C. §103(a) as being obvious in light of Lawandy et al. WO 99/67085 in further view of Mallow et al. US 5,183,763 (hereafter "the '763 patent").

Claims 23 and 24 have been canceled without prejudice or disclaimer.

Applicants restate all the above arguments pertaining to the '085 application here.

The '763 patent discloses a system for detecting vapor or liquid reactants. The '763 patent does not disclose a limited life optical medium with information encoding features. Further, the '763 patent does not disclose a read inhibiting agent that is permanent and irreversible in its change from a substantially transparent state to a substantially opaque state. Moreover, the initial state of the system disclosed in the '763 patent is not substantially transparent, but instead yellow.

The '763 patent discloses a reversible vapor and liquid detection system. Specially, the '763 patent discloses a composition "capable of regenerating to its original color, thereby providing repeated detection capability" (last sentence in first paragraph in Summary of Invention section). Moreover, the '763 patent does not disclose a two solvent system in which one solvent has a higher volatility than the other solvent as a system for transforming a substantially transparent state to a substantially opaque state. The ground state for the system in the '763 patent is yellow ("the coating composition of the present invention provides a reversible phenomenon such that the composition reverses back to its original color (e.g. yellow) after a period of time." col. 4, ln. 48-52).

The '763 patent and the '085 application taken together do not disclose a system for inactivating the disclosed coating until a preserving chemical or material is quenched. The '763 patent has no preserving material nor does it suggest or teach such a system. In fact, a preserving chemical or material would prevent the system disclosed in the '763 patent from operating properly. The system in the '763 patent is for detecting vapor and liquid, i.e., toxic chemicals or biological warfare agents. A preserving agent used in the system disclosed in the '763 patent would prove detrimental to human life. The '085 application does not disclose a barrier that is separate and apart from the limited life optically readable medium.

Claims 25 and 26 as currently pending in the present application require that the limited life optical medium be able to expire **while still enclosed in said package** and after a predetermined time and before being read at least once. Claims 25 and 26 further require that the **package comprises a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises a **getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The '085 application in view of the '763 patent do not disclose or teach a **package compris[ing] a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises a **getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The claims as currently amended require that the barrier material that acts a diffusion layer be separate from the limited life optically readable medium.

In light of the above arguments with respect to the '763 patent and the '085 application, Applicants respectfully request that the rejections to claims 4-6, 14-16 be withdrawn and that the claims are believed to be in condition for allowance.

Lawandy et al. WO 99/67085 in light of Mallow et al. US 5,183,763 and Saeki et al. US 4,800,193

The Examiner rejected claims 4-7, 14-17, 23 and 24 under 35 U.S.C. §103(a) as being obvious in light of Lawandy et al. WO 99/67085 in further view of Mallow et al. US 5,183,763 and Saeki et al. US 4,800,193 (hereafter "the '193 patent").

Claims 23 and 24 have been canceled without prejudice or disclaimer.

Applicants restate all the above arguments pertaining the '085 application and the '763 patent here.

The '193 patent discloses a recording material with improved color developability and shelf life. The recording material the '193 is directed to photographic film. The '193 patent does not disclose a system with a shorter shelf life. Moreover, the '193 patent does not disclose a system for intentionally limiting the life of limited play optical medium while still on the shelf, in a package, and before the information contained thereon is read.

The disclosure of the '193 patent in combination with the '085 application and the '763 patent do not teach or suggest, alone or in combination, a limited life optical medium with a read inhibiting agent that undergoes a permanent and irreversible change to render the limited life optical medium unreadable while inside a package after a predetermined time and before being read.

Claims 25 and 26 as currently pending in the present application require that the limited life optical medium be able to expire **while still enclosed in said package** and after a predetermined time and before being read at least once. Claims 25 and 26 further require that the **package comprises a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises **a getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The '085 application in view of the '763 patent and the '193 patent do not disclose or teach a **package compris[ing] a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises **a getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The claims as currently amended require that the barrier material that acts a diffusion layer be separate from the limited life optically readable medium.

In light of the above arguments with respect to the '193 patent, the '763 patent and the '085 application, Applicants respectfully request that the rejections to claims 4-7, 14-17 be withdrawn and that the claims are believed to be in condition for allowance.

Lawandy et al. US 6,489,892

The Examiner rejected claims 4-6, 14-16, 23 and 24 under 35 U.S.C. §103(a) as being obvious in light of Lawandy et al. US 6,489,892 (hereafter "the '892 patent").

Claims 23 and 24 have been canceled without prejudice or disclaimer.

The '892 patent does not disclose or teach a limited life optically readable medium that becomes unplayable **while still enclosed in said package** and before being read at least once. The '892 patent discloses a verification system wherein removal of a game token or other similar device triggers a reaction that leads to a subsequent color change of the device. This color change provides an indication that the device has been used and/or removed from its packaging. Also disclosed is a preserving agent to prevent the color change from occurring while in the package.

The disclosure of the '892 patent does not teach or suggest, alone or in combination, a limited life optical medium with a read inhibiting agent that undergoes a permanent and irreversible change to render the limited life optical medium unreadable while inside a package after a predetermined time and before being read.

Claims 25 and 26 as currently pending in the present application require that the limited life optical medium be able to expire **while still enclosed in said package** and after a predetermined time and before being read at least once. Claims 25 and 26 further require that the **package comprises a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises a **getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The '892 patent does not disclose or teach a **package compris[ing] a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises a **getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The claims as currently amended require that the barrier material that acts a diffusion layer be separate from the limited life optically readable medium.

In light of the above arguments with respect to the '892 patent, Applicants respectfully request that the rejections to claims 4-7, 14-17 be withdrawn and that the claims are believed to be in condition for allowance.

Nonstatutory Double Patenting Rejection

The Examiner rejected claims 4-6, 14-16, 23 and 24 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 18-28 and 34-36 of U.S. Patent No. 6,489,892.

The '892 patent is not commonly owned with the present application so Applicants cannot file a terminal disclaimer to overcome this rejection. However, in the light of the above arguments regarding the '892 patent this rejection is believed to be overcome.

Moreover, claims 18-28 and 34-36 of the '892 patent do not include the limitation of a getter material that quenches a preserving material and thus prevents the activation of the read inhibiting agent in the optically readable medium package. Nor do the claims cited by the Examiner in the '892 patent include the limitation of the device expiring **while still enclosed in said package**.

Further, claims 25 and 26 further require that the **package comprises a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises **a getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The '892 patent does not disclose or teach a **package compris[ing] a barrier material that allows said triggering agent to diffuse through said package at a predefined rate** and that the package comprises **a getter material for neutralizing said triggering agent for a predetermined time**. The getter material allows for control of when the limited life optical medium will expire in the package. The claims as currently amended require that the barrier material that acts a diffusion layer be separate from the limited life optically readable medium.

Applications further respectfully request that the rejections to claims 4-6 and 14-16 be withdrawn and that the claims as currently amended are believed to be in condition for allowance.

Application No. 10/016,263
Amendment dated March 24, 2005
Reply to Final Office Action of September 24, 2004

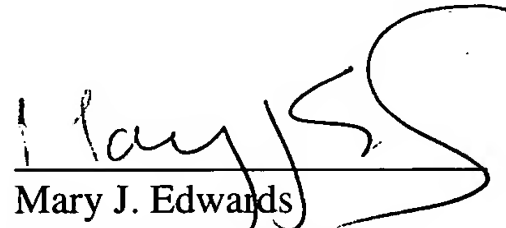
CONCLUSION

Applicants respectfully request an early and favorable reconsideration and allowance of this application as amended herein. The Examiner is encouraged to contact the undersigned to expedite prosecution of this application.

Applicants also include a petition for a three-month extension of time to extend the period for response up to and including March 24, 2005. An authorization to charge the associated fee of \$510.00 to our Deposit Account No. 08-0219 accompanies this response.

No other fees are believed to be due in connection with this submission. However, please charge any fees that might be due or credit any overpayment to our Deposit Account No. 08-0219.

Respectfully submitted,



Mary J. Edwards
Registration No. 55,140

Date: March 24, 2005
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
Telephone No.: 617-526-6000
Fax No.: 617-526-5000